

Remarks

Claims 1, 8-10, 13, 14, and 17-22 are all the claims pending in the above-identified application prior to entry of this Amendment. Claims 18 through 22 have been cancelled in order to advance the prosecution of this case. Claim 1 has been amended to correct the structure identified as 1.1.3. Applicants wish to thank the examiner for pointing out this obvious typographical error. Structure 1.1.3 was properly identified in the application as filed and was inadvertently incorrectly drawn in the preliminary amendment filed on February 17, 2004. In addition, Claim 1 has been amended to delete the proviso added in the Response filed on June 9, 2006. The examiner has suggested that the term "comprises" in the definition of B1 and B2 in claim 1 does not eliminate the non-elected subject matter. Applicants have amended claim 1 to remove these terms. Accordingly, after entry of this Amendment, Claims 1, 8-10, 13, 14, and 17 are pending in this case. Claim 17 has been amended to delete subject matter directed to the non-elected invention. The changes to the claims do not constitute the addition of new matter and full support for the changes may be found in the specification and claims as originally filed.

New Rejection Under 35 U.S.C. §112, First Paragraph

The Examiner has rejected claim 1, under 35 U.S.C. §112, first paragraph, as failing to comply with the written description requirement in that the proviso added to claim 1 introduces new matter. Applicants have deleted the proviso, making this rejection moot.

Applicants wish to thank the examiner for pointing the typographical error delineating the incorrect structure for partial formula 1.1.3. Applicants have amended claim 1 to correct this typographical error. The correct structure for 1.1.3 finds antecedent basis in the specification, as filed, on pages 72, line 11, through page 74, line 19 and claims as originally filed.

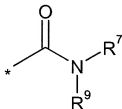
Therefore, in light of the amendment of claim 1, reconsideration and withdrawal of the rejection under 35 U.S.C. §112, first paragraph, is respectfully requested.

Rejection Under 35 U.S.C. §102(b)

The Examiner has maintained his rejection of claims 1, 9, 10, 13, 14 and 17-22 under 35 U.S.C. §102(b) as allegedly anticipated by Marfat (WO 98/45268). The Examiner alleges that Marfat compounds in examples 229 and 285 anticipate the instant claims when j is 1, R³ is H, n is 1, W is O, B¹ is phenyl and B² represents either a phenyl group or a cyclohexyl group in the compounds of formula (1.0.0).

Applicants respectfully traverse this rejection and request reconsideration.

The compounds in examples 229 and 285 of Marfat (WO 98/45268) do not anticipate the present invention. In Claim 1 of the present invention, A is represented



by formula 1.1.3 . There is no equivalent structure in examples 229 and 285 of Marfat (WO 98/45268) or elsewhere in Marfat.

In claim 1 of the present invention as corrected, when j is 1 and R³ is H, NH is attached to the oxo group which is attached to the 3 position of the pyridyl ring; when n is 1, the carbon to which R^C and R^D are attached is further attached to B². B² is further attached, optionally through an alkylene group, to A defined as formula 1.1.3 as shown above. A, a carboxamide group, must contain a nitrogen atom. Examples 229 and 285 of Marfat, cited by the Examiner, are distinguished from the present invention as lacking a carboxamide group attached to B².

In view of these amendments, reconsideration and withdrawal of the rejections under 35 U.S.C. §102(b) is respectfully requested.

Rejection Under 35 U.S.C. §112, First and Second Paragraphs and 35 U.S.C. §101

The examiner has maintained the rejection of claims 18-22 under 35 U.S.C. §112, first paragraph, claims 18, 19 and 22 under 35 U.S.C. §112, second paragraph, and claim 19 under 35 U.S.C. §101. Applicants have cancelled claims 18-22, making these rejections moot.

Therefore, withdrawal of the rejections under 35 U.S.C. §112, first and second paragraphs, and 35 U.S.C. §101 is respectfully requested.

The amendments are based on section 101 and 112 issues and are not made to overcome art-based rejections. Accordingly, such discussion and corresponding amendments should not be construed in a limiting manner.

It is respectfully submitted that the claims have been put in condition for allowance. Notification to this affect is earnestly solicited. The Examiner is encouraged to contact the Applicants' undersigned attorney to discuss this matter if any questions should arise upon further examination of the pending claims.

Respectfully submitted,

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Date

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